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Minutes of the Commission Meeting Held on October 4, 2007 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E – Edgartown)	P Doug Sederholm (E – Chilmark)
P Peter Cabana (A – Tisbury)	- Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
- Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
- Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Paul Foley (DRI Coordinator), Christine Flynn, Jo Ann Taylor (DCPC Coordinator)

The meeting was called to order at 7:30 p.m.

1. SPECIAL WAYS DCPC NOMINATION – DELIBERATION & DECISION

Mark London clarified that the nomination was the larger limit that corresponds to the map. Counsel advised that the Commission may proceed with the town's nomination of the larger limit.

Doug Sederholm referred Commissioners to Jo-Ann Taylor's memorandum of September 27, 2007, describing the nomination boundary as it appears in the supplemental staff notes. Commissioners are voting on the nomination boundary as described.

The Edgartown Planning Board submitted a letter, dated September 24, 2007, reiterating that it took a vote confirming that it's the boundary on the map that goes to the text, as stated during the hearing. The text that they originally gave the Commission was incorrect.

Doug Sederholm reviewed District Qualifications.

- Present regulations in a substantial part of the district do not assure protection.
- Damage to the district or impediments to proper development will be a substantial loss to the region or to two or more towns.
- It is a critical area or critical resource in need of protection.
- It is a logical planning area that should be considered in adopting a coordinated system of regulations to protect a critical resource or critical area.

- The dimensions or landmarks that form the boundary of the district are convenient and recognizable.
- Specific qualifications for a cultural or historical resource district.
 - The area is of exceptional symbolic or recreational importance to the residents of more than one town.
 - Is either visible or accessible to them or can reasonably be made so.
 - Is rare, unique or makes an unusual contribution to the diversity of the Island character.
 - These places are irreplaceable or replaceable only with extraordinary effort or expense.
- The vote is whether to designate the five ways as part of the Special Ways Zone of the Island Road DCPC. The designation would then go to the Town to determine regulations if any in accordance with existing guidelines. The regulations would be submitted to the Commission for approval, followed by adoption of the regulations by a 2/3 vote at Town Meeting, after which, after which they would go into effect.
- There is a development moratorium in effect until the regulations come before the Commission and are subsequently voted by the Town Meeting.

Linda Sibely moved, and it was duly seconded, to designate as requested by the Town of Edgartown.

Linda Sibley said that each of the District Qualifications seems to pertain.

James Athearn said, in relation to the importance of ancient ways, when he was young, his father would walk with the children on ancient ways and look for paths and tell stories of ways across the Island. Since he has become a runner, he's used similar ancient ways in Edgartown. It's distinctly important to Island character to maintain the ancient ways as closely as possible to their historic state.

Chris Murphy asked whether, by designating the ways, any abutter's rights are abrogated.

Doug Sederholm said it depends on the regulations the town adopts. The Commission would be giving the Town the ability to develop regulations to protect the ways that they won't otherwise have. The other side of the story is whether the Commission wants to give the Town the opportunity to preserve the paths in a way so they can be enjoyed by everyone.

Peter Cabana reiterated that whatever regulations are developed, they have to come before the Commission.

Christina Brown said that the old paths and ways in Edgartown are irreplaceable.

- She doesn't believe that the designation takes away people's rights to use their land. The designation may limit the use in some way.
- The designation would limit protection to 20 feet either side of the centerline and any curb cuts would be 1000 feet apart.

John Breckenridge said the designation won't take away people's rights. It would preserve a resource.

Paul Strauss said the guidelines for the Special Ways already exist. The instruction to the town is to develop regulation in conformance with the guidelines. The Commission approves the regulations only if they conform with guidelines.

Richard Toole said he has reservations, too. One family will be impacted the most. He hopes that when the Town develops its regulations, they will keep that in mind.

Doug Sederholm said that one person who spoke in opposition said if the designation were approved, the ways would become public and would have to be maintained to a certain level of development and maintenance for public safety. He feels that isn't true. The Town has greater flexibility in the ways it can handle a way that has public access; it can make it a road, a bike path, or walking path.

Linda Sibley said a number of years ago Commission counsel said that the designation of a special way does not grant any rights to the public that aren't already there. The designation of a way as a special way does not change the status of the public's rights to use the way, or change any individual's rights. It just allows development of regulations to protect the way.

Christina Brown restated the nomination.

- The ways date back to the 1600 and 1700s. They were cart paths traced over paths established by Wampanoags. They defined some of the earliest set-offs of land to individuals.
- In addition to being visible reminders of history, today the ancient ways are enjoyed for recreation.
- In terms of present use for passive recreation and historical use, it's important to designate.

A voice vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: None. Abstentions: J. Powell. The motion passed.

Christina Brown mentioned that the designation would limit protection to either side of the centerline, and would connect to other towns' special ways designations and connect to other paths that create an old road system.

2. MINUTES

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

2.1 June 7, 2007

Jim Powell moved, and it was duly seconded, to accept the minutes of June 7, 2007, as written. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.

2.2 June 14, 2007

Linda Sibley moved, and it was duly seconded, to accept the minutes of June 14, 2007, as written. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

2.3 June 21, 2007

Linda Sibley moved, and it was seconded, to accept the minutes of June 21, 2007, as corrected:

- *Spelling correction: Ferry*
- *Addition to James Ferry DRI: Doug Sederholm recused himself and left the room*

A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 2. The motion passed.

2.4 July 5, 2007

Linda Sibley moved, and it was duly seconded, to accept the minutes of July 5, 2007, as written. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.

2.5 July 18, 2007

Linda Sibley moved, and it was duly seconded, to accept the minutes of July 18, 2007, as written. A voice vote was taken. In favor: 8. Opposed: 0. Abstentions: 5. The motion passed.

2.6 August 9, 2007

John Breckenridge moved, and it was duly seconded, to approve the minutes of August 9, 2007, as written. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 2. The motion passed.

3. ENERGY POLICY

Kathy Newman asked about the Energy Policy. **Peter Cabana** said he's looking forward to meeting again to discuss comments on the policy.

Commissioners discussed the Energy Policy.

- **Mark London** said it's difficult to measure things in a way that's easy for the applicant and meaningful for the Commission.
- **Peter Cabana** said he has sent an e-mail recommending a higher standard, which equals more cost. He recommends honestly evaluating all of the options and making a decision. Kate Warner is running numbers of some sample situations to indicate what different measures would cost.
- **Kathy Newman** said there is some urgency. Aquinnah is struggling with developing guidelines. The Commission needs to set some standards that would help the town move ahead.

- **Peter Cabana** said the committee is finished in terms of recommending a standard, which is EnergyStar. The committee should sit and open up the recommendation for review.
- **Ned Orleans** said the function of the committee is to draft the report and includes recommendations and evaluation of options for the full Commission to review. The Commission has an organized document that gives direction to the discussion.

Doug Sederholm said he would like the committee to develop a framework for an intelligent decision within a couple of the months. **Peter Cabana** said the committee would make every effort to do that.

Mark London suggested that the Energy Committee meet and invite any Commissioners who want to attend.

- The Commission has a draft policy that outlines the basic principles. It had hoped to get to some kind of numeric standard and give applicants the flexibility on how to achieve that.
- The Commonwealth of Massachusetts announced that all projects submitted to MEPA would be required to address energy issues. He said he had hoped they would decide on a standard, which we could then use. It now appears that they will not be doing that.

Linda Sibley said the Commission is dealing with smaller projects that may not have the ways or means of dealing with an energy requirement. Additionally, if the Commission doesn't have the ability to assist applicants with calculation, then it shouldn't impose the requirement.

Peter Cabana will let Commissioners know when the Energy Committee is meeting.



4. EXECUTIVE DIRECTOR'S REPORT

Mark London reported.

- Several staff members are going to the American Planning Association of Southeast New England Conference in Hyannis.
- The Citizen Trainer Collaborative is holding two sessions.
 - Planned Production for Affordable Housing Plans on October 13th at the Stone Building.
 - Vested Rights and Non-Conforming Uses and Structures, oriented largely for planning boards, ZBA members and town officials.

Bill Veno announced a Webcast seminar on November 7th on the rules and responsibilities for planning boards and board of appeals.

The meeting adjourned at 8:30 p.m.


Chairman

Clerk-Treasurer

2-21-08
Date
2-29-08
Date